

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Qwest Petition for Forbearance Under 47 U.S.C.
§160(c) From Title II and *Computer Inquiry Rules*
with Respect to Broadband Services

WC Docket No. 06-125

Petition of AT&T Inc, For Forbearance Under 47
U.S.C. §160(c) From Title II and *Computer Inquiry*
Rules with Respect to Broadband Services

WC Docket No. 06-125

Petition of BellSouth Corporation For Forbearance
Under 47 U.S.C. §160(c) From Title II and
Computer Inquiry Rules with Respect to
Broadband Services

WC Docket No. 06-125

Petition of the Embarq Local Operating
Companies for Forbearance Under 47 U.S.C.
§160(c) From Application of *Computer Inquiry* and
certain Title II Common Carriage Requirements.

WC Docket No. 06-147

Declaration

of

COLIN B. WEIR

on behalf of

AdHoc Telecommunications Users Committee

October 9, 2007

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DECLARATION OF COLIN B. WEIR

Introduction

Colin B. Weir, of lawful age, declares and says as follows:

1. My name is Colin B. Weir. I am a Consultant at Economics and Technology, Incorporated (“ETI”), One Washington Mall, 15th Floor, Boston, MA 02108. ETI is a research and consulting

1 firm specializing in telecommunications and public utility regulation and public policy. I have been
2 asked by the AdHoc Telecommunications Users Committee to review a Criterion Economics view
3 graph submitted by Verizon as an ex parte exhibit in the instant proceeding. I have personally
4 reviewed this view graph and the following statements are made of my own knowledge, unless
5 stated on information and belief, in which case I believe them to be true. A true and correct copy of
6 my Statement of Qualifications is annexed hereto as Attachment 1.

7

8 **The Criterion Economics chart plotting investment in “Communications Equipment” over**
9 **time falsely correlates increased investment with deregulation**

10

11 2. Verizon has recently submitted an update to a chart produced by Criterion Economics that
12 purports to demonstrate that investment in so-called “Communications Equipment” has increased
13 dramatically as a direct result of FCC deregulation.¹ This chart is highly misleading: it makes use
14 of a broad Bureau of Economic Analysis (“BEA”) index for “Communications Equipment” that
15 includes investments in categories irrelevant to RBOC telecommunications service, and ignores
16 critical on-the-ground causal information, such as the state of capital markets and the availability of
17 investment capital to RBOCs. When viewed at the correct level, it becomes clear that RBOC
18 investments are not increasing at anywhere near the level claimed by Verizon and Criterion, and are
19 driven primarily by the state of capital markets rather than FCC deregulation.

20

¹ *Petitions of AT&T Inc., BellSouth Corporation, the Embarq Local Operating Companies, and Qwest Under 47 U.S.C. § 160(c) for Forbearance from Title II and Computer Inquiry Rules with Respect to Broadband Services*, WC Docket Nos. 06-125 & 06-147, Ex Parte Submission of Verizon Communications (filed September 17, 2007.)

**1 The Criterion view graph incorrectly uses overbroad data that misrepresents the current
2 state of RBOC capital investment**

3
4 3. Though the citation provided by Criterion on the view graph is vague,² it appears that the
5 chart is based upon the BEA National Income and Products Accounts (“NIPA”) table 5.5.6, which
6 includes a category for “Communications Equipment.”³ Comparing the values shown in the
7 Criterion chart with the BEA data, it appears that Criterion has used data from the overarching
8 category of Computers, Software, and Communication, which includes a vast array of investments
9 unrelated to Communications Equipment or to the regulation of RBOC telecommunications
10 services.⁴ This account is actually about four times larger than the underlying communications
11 equipment category, and cannot possibly allow the FCC (or anyone else for that matter) to make an
12 objective assessment as to the trends in RBOC investment in Communications Equipment.⁵

13

14 4. Even if Criterion had used the BEA subcategory for “Communications Equipment” the
15 data presented in the chart fails to provide a reasonable basis to gauge RBOC investment activities
16 because this category itself is quite broad. Among other non-related sub-accounts, the BEA

² The citation references only “U.S. Department of Commerce Bureau of Economic Analysis.”

³ BEA NIPA tables are available online at <http://bea.gov/national/nipaweb/SelectTable.asp?Selected=N> (accessed October 9, 2007.)

⁴ For example, the Criterion view graph, for 2005, shows quarterly investment at or above approximately \$100-billion, putting 2005 annual investment at approximately \$420-billion or more. NIPA table 5.5.6 shows that total annual investment in Computers Software and Communications (of which Communications is only a small part) at \$467.2-billion.

⁵ Communications Equipment investment in 2005 represents only \$103.4-billion of the more than \$400-billion as shown on the Criterion Economics viewgraph.

1 Communications Equipment account includes investments in Computer Terminals, Broadcast and
2 Wireless Communications equipment (such as amateur radio stations, broadcast studio equipment,
3 TV equipment), Search Detection Navigation and Guidance Systems, and Guided Missile and
4 Space Vehicles. All of these extra categories included in the overall “Communications Equipment”
5 investment prevent the use of investment data that might serve as the basis for an analysis of RBOC
6 investments for a regulatory proceeding.

7

8 **The chart seeks to portray a causal relationship between deregulation and investment**
9 **–ignoring other factors that may influence investment–and does so without presenting the**
10 **results of standard economic tests to validate a statistically significant causal relationship**
11

12 5. The Criterion chart plots investment in so-called “Communications Equipment” over time,
13 and marks the passage of time with various regulatory and deregulatory actions, including the
14 passage of the Telecom Act of 1996, implementation of UNE regulations, and FTTP and
15 Unbundling deregulation. The chart does not present any information or analysis to show that
16 deregulation has in any way caused an increase in investment. Criterion provides no evidence that
17 the relationship they seek to demonstrate is statistically significant, and it is highly unlikely that
18 they could do so: in fact, the chart shows two periods of substantial growth in investment, one of
19 which occurred during a period of *intense increasing of FCC regulation of the telecommunications*
20 *market*.⁶ It is noteworthy that during this same period of increasing regulation that Criterion labels
21 “‘The Bubble’ -Funded by \$462-billion in CLEC Hi-Yield Debt,” Verizon’s own capital additions

⁶ In fact, gauging the Criterion graph, growth in investment was greater during the period 1997-2000 (as marked by substantial increases in regulation) than during the longer period 2002-2007 (as marked by deregulation).

1 to Telecommunications Plant in Service increased by some 36%.⁷ This spate of investment during
2 the period 1997-2001 produced \$48.8-billion in Verizon TPIS additions, as compared to TPIS
3 additions of \$35.4-billion during the period 2002-2006 – meaning that Verizon spent 37.7% more
4 on telecommunications plant during the period of regulation than the subsequent period of
5 deregulation.⁸ This evidence directly contravenes any theory that investment, or growth in
6 investment, is directly tied to deregulatory actions.

7

8 6. The Criterion chart also ignores many other factors that economic theory would suggest
9 might affect investment. For example, there is no discussion or indication of the availability of
10 capital from capital markets, or the general state of the stock market overall. An analysis of
11 “Communications Equipment” investment over time, when compared to the fluctuations of the
12 NASDAQ (see Figure 1 below) shows a strong correlation between the two indices.

13

14

⁷ This 36% growth represents the growth attributable to both of Verizon’s predecessor companies: Bell Atlantic and non-RBOC GTE. Bell Atlantic’s individual TPIS additions experienced growth of more than 57% during the same period. See, Federal Communications Commission, ARMIS Report 43-02, USOA Report: Table B-1.b, YE 1996-2001, available at <http://www.fcc.gov/wcb/eafs> (accessed October 9, 2007).

⁸ *Id.*

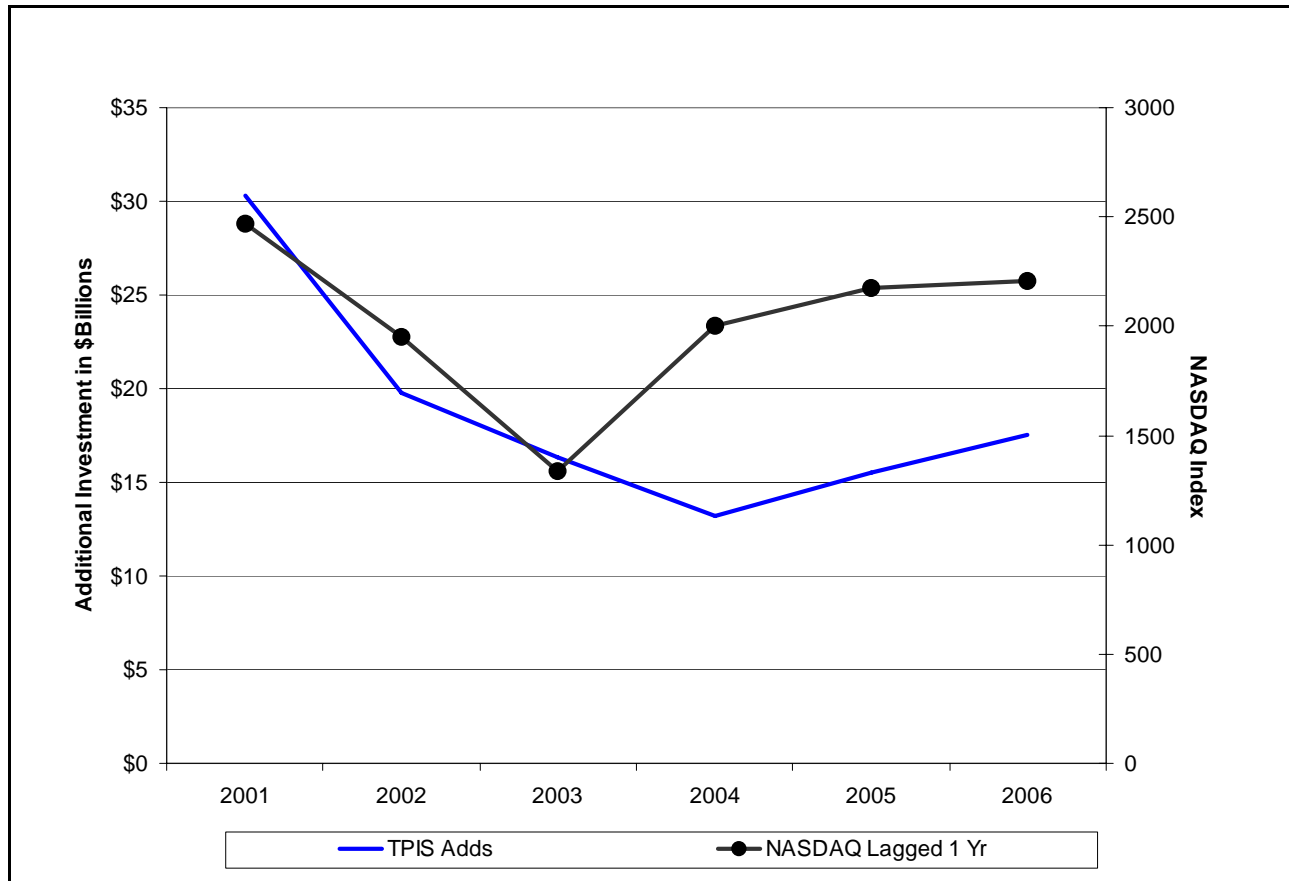


Figure 1. RBOC Capital Expenditures Track Economic Activity in The Overall Technology Sector

1 In fact, the correlation is even stronger when a comparison of the NASDAQ and actual RBOC
2 investments in Cable and Wire Facilities is made (Figure 2). This would suggest that RBOCs are
3 basing their investment decisions at least in part on Wall Street and not on FCC deregulatory
4 actions.

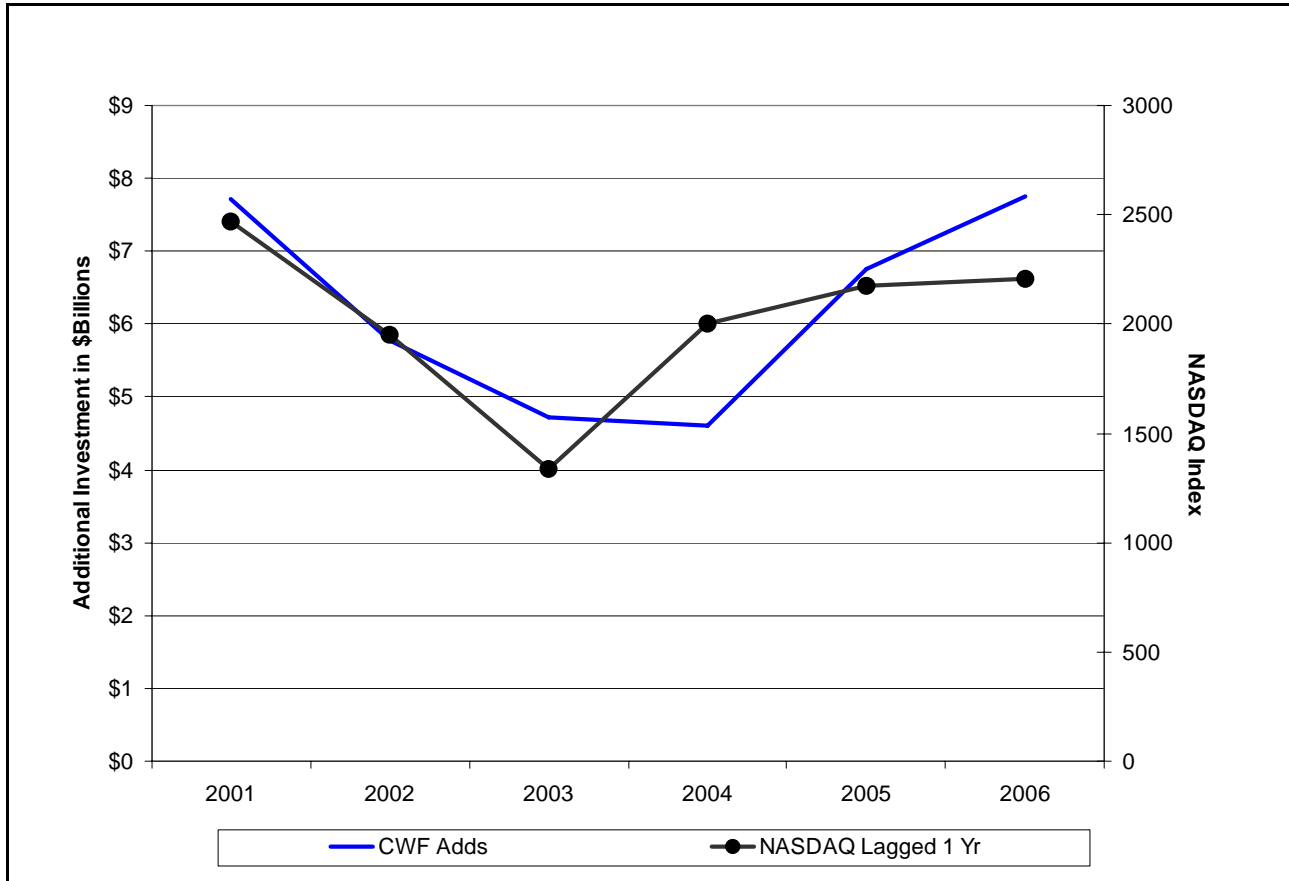


Figure 2. RBOC CWF Expenditures Track Economic Activity in The Overall Technology Sector

1 I declare under penalty of perjury that the foregoing is true and correct to the best of my
 2 knowledge, information, and belief, and that this declaration was executed at Boston,
 3 Massachusetts, this 9th day of October 2007.

4
 5
 6
 7 

8 Colin B. Weir
 9

Attachment 1

Statement of Qualifications

COLIN B. WEIR

Statement of Qualifications

COLIN B. WEIR

Colin B. Weir is a Consultant at Economics and Technology, Inc. Mr. Weir assists Senior Consulting Staff with economic research and analysis on all aspects of the telecommunications industry for ETI's clients. His experience includes work on a variety of issues, including: wireless pricing, and ETF and handset locking practices; NANPA numbering policy; Universal Service policy; pricing and regulation of Unbundled Network Elements; rate-of-return regulation; pricing flexibility for special access services; and telecommunications tariff and contract pricing.

Recently, Mr. Weir has been involved with the issue of pricing flexibility for special access services. He has conducted a detailed analysis of special access rates-of-return and pricing trends and developed a macroeconomic analysis quantifying the economic harms to the US economy and job markets of overpricing special access services. As part of his research, Mr. Weir has explored the effects of the potential misclassification of RBOC broadband investments to the special access category.

Mr. Weir has undertaken in-depth analyses of Numbering Resource Utilization in California. Using publicly available data from several sources, Mr. Weir estimated the number of available telephone numbers in carrier inventories. Additionally, Mr. Weir forecast the likely future demand for numbers given the recent changes in the regulatory climate.

Mr. Weir has conducted extensive research on the Federal Universal Service Fund. His analysis of the fund has included an examination of state-by-state net contributions to the fund, an in-depth investigation of the effects of rate-of-return regulation on the draws of individual companies from the fund, and an analysis of inefficiencies resulting from current Federal Universal Service policy. As part of his research, Mr. Weir conducted detailed inspections of the financial statements and the quarterly filings made to the Universal Service Fund administrator of individual companies. Mr. Weir's research findings on Universal Service have been presented in several reports filed at the FCC on behalf of Western Wireless.

Mr. Weir has also worked extensively on the pricing and regulation of Unbundled Network Elements. In this capacity, Mr. Weir has contributed to comments filed at the FCC in the TRO Remand and the TELRIC NPRM proceedings and has drafted testimony for state UNE proceedings in Washington, Michigan, Illinois, Ohio, and Wisconsin. His work in these proceedings includes modeling the effects of competition on the appropriate cost of capital for use in the telecommunications industry. He has also reviewed the application of cost modeling inputs, including economic depreciation rates, future net salvage values for telecommunications assets, and the costs of debt and equity. Additionally, he has evaluated the use of historic accounting costs as a benchmark for forward-looking economic costs.

Mr. Weir has researched pricing and discount rates in enterprise voice and data services contracts, maintained a extensive database of such rates, and has contributed to network priceouts

and rate benchmark analyses. Additionally, Mr. Weir is responsible for the maintenance of ETI's comprehensive databases of interstate and international interexchange carrier and local telephone company tariffs. He has contributed to white papers, and has drafted testimony, discovery and cross-examination. Mr. Weir has developed substantial experience with industry data resources.

Mr. Weir received a Bachelor of Arts degree *cum laude* in Business Economics from The College of Wooster. While at Wooster, Mr. Weir published two Independent Study Theses including his senior thesis "Sales Forecasting in Supermarkets: A Comparison of Econometric and Non-Econometric Methods." He is currently pursuing an MBA at Northeastern University.

Publications of Colin B. Weir

Mr. Weir has contributed research and analysis to numerous ETI publications and testimony at the state and federal level, and has co-authored the following:

The AWS Spectrum Auction: A One-Time Opportunity to Introduce Real Competition for Wireless Services in Canada (with Lee L. Selwyn and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of MTS Allstream, June 2007.

Comparison of Wireless Service Price Levels in the US and Canada (with Lee L. Selwyn) Economics and Technology, Inc., prepared on behalf of MTS Allstream, May 2007.

Building a Broadband America: Myths and Realities (with Lee L. Selwyn, Susan M. Gately, and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of COMPTTEL, May 2007.

Success Stories From The '96 Telecom Act: Competition Has Brought Benefits to the American Consumer (with Susan M. Gately and Elizabeth P. Tuff) Economics and Technology, Inc., prepared on behalf of COMPTTEL, May 2006.

Hold the Phone! Debunking the Myth of Intermodal Alternatives for Business Telecom Users In New York Colin B. Weir (with Susan M. Gately and Lee L. Selwyn) Economics and Technology, Inc., prepared for the UNE-L CLEC Coalition, August 2005.